

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

DOUGLAS AREVALO,

Plaintiff,

Case No. 13-cv-01219

v.

EQUIFAX INFORMATION SERVICES, LLC,
EXPERIAN INFORMATION SOLUTIONS, INC.,
TRANS UNION, LLC, The CBE Group, Inc.,
FMS, INC., and GRANITE BAY ACCEPTANCE, INC.,

Defendants.

DEFENDANT, FMS, INC.'S, ANSWER AND AFFIRMATIVE DEFENSES

Defendant, FMS, INC. ("FMS"), by counsel, states as follows for its Answer and Affirmative Defenses to the Complaint filed by Plaintiff, Douglas Arevalo ("Plaintiff"):

1. FMS admits that plaintiff purports to bring an action for actual and statutory damages under the Fair Credit Reporting Act ("FCRA"). FMS denies liability and damages, and to the extent the allegations contained in ¶ 1 state otherwise, they are denied.

2. The allegations contained in ¶ 2 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

3. The allegations contained in ¶ 3 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

4. The allegations contained in ¶ 4 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

5. FMS denies the allegations contained in ¶ 5.

JURISDICTION

6. FMS leaves all matters of jurisdiction to the Court; therefore, FMS denies the allegations contained in ¶ 6.

PARTIES

7. FMS denies the allegations contained in ¶ 7 for lack of knowledge or information to form a reasonable belief therein and as calling for a legal conclusion.

8. The allegations contained in ¶ 8 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

9. The allegations contained in ¶ 9 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

10. The allegations contained in ¶ 10 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

11. The allegations contained in ¶ 11 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

12. The allegations contained in ¶ 12 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

13. The allegations contained in ¶ 13 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

14. The allegations contained in ¶ 14 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

15. The allegations contained in ¶ 15 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

16. The allegations contained in ¶ 16 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

17. FMS admits it is an Oklahoma corporation. Except as specifically admitted, FMS denies the allegations in ¶ 17.

18. The allegations contained in ¶ 18 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

19. The allegations contained in ¶ 19 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

FACTS

20. FMS denies the allegations contained in ¶ 20 for lack of knowledge or information to form a reasonable belief therein and as calling for a legal conclusion.

21. The allegations contained in ¶ 21 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

22. The allegations contained in ¶ 22 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

23. The allegations contained in ¶ 23 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

24. FMS denies the allegations contained in ¶ 24 for lack of knowledge or information to form a reasonable belief therein.

25. FMS denies the allegations contained in ¶ 25 for lack of knowledge or information to form a reasonable belief therein.

26. FMS denies the allegations contained in ¶ 26 for lack of knowledge or information to form a reasonable belief therein.

27. FMS denies the allegations contained in ¶ 27 for lack of knowledge or information to form a reasonable belief therein.

28. FMS denies the allegations contained in ¶ 28 for lack of knowledge or information to form a reasonable belief therein.

29. FMS denies the allegations contained in ¶ 29 for lack of knowledge or information to form a reasonable belief therein.

30. FMS denies the allegations contained in ¶ 30 for lack of knowledge or information to form a reasonable belief therein.

31. FMS denies the allegations contained in ¶ 31 for lack of knowledge or information to form a reasonable belief therein.

32. FMS denies the allegations contained in ¶ 32 for lack of knowledge or information to form a reasonable belief therein.

33. FMS denies the allegations contained in ¶ 33 for lack of knowledge or information to form a reasonable belief therein.

34. FMS denies the allegations contained in ¶ 34 for lack of knowledge or information to form a reasonable belief therein.

35. FMS denies the allegations contained in ¶ 35 for lack of knowledge or information to form a reasonable belief therein.

36. FMS denies the allegations contained in ¶ 36 as written and for lack of knowledge or information to form a reasonable belief therein.

37. FMS denies the allegations contained in ¶ 37 for lack of knowledge or information to form a reasonable belief therein.

38. The allegations contained in ¶ 38 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

39. The allegations contained in ¶ 39 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

40. The allegations contained in ¶ 40 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

41. The allegations contained in ¶ 41 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

42. The allegations contained in ¶ 42 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

43. The allegations contained in ¶ 43 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

44. The allegations contained in ¶ 44 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

45. The allegations contained in ¶ 45 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

46. The allegations contained in ¶ 46 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

47. The allegations contained in ¶ 47 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

48. The allegations contained in ¶ 48 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

49. FMS denies the allegations in ¶ 49.

COUNT ONE
(violation of 15 U.S.C. § 1681e(b))
(EXPERIAN, EQUIFAX, TRANS UNION)

50. The allegations contained in ¶ 50 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

51. The allegations contained in ¶ 51 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

52. The allegations contained in ¶ 52 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

53. The allegations contained in ¶ 53 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

54. The allegations contained in ¶ 54 are not directed at FMS and therefore do not require a response. To the extent a response is necessary, denied for lack of knowledge or information to form a reasonable belief therein.

COUNT TWO
(violations of 15 U.S.C. § 1681s-2(b)(1)(A))
(FMS, CBE & GRANITE BAY)

55. FMS incorporates all answers and objections set forth above.

56. FMS denies the allegations in ¶ 56.

57. FMS denies the allegations in ¶ 57.

58. FMS denies the allegations in ¶ 58.

59. FMS denies the allegations in ¶ 59.

AFFIRMATIVE DEFENSES BY FMS

1. Plaintiff has not stated a claim upon which relief may be granted.

2. Plaintiff's claims are barred by the statute of limitations and/or laches.

3. Plaintiff's claims are barred by the doctrine of avoidable consequences, failure to mitigate, estoppel, waiver, unclean hands, consent and/or assumption of risk in that plaintiff.

4. Any harm suffered by plaintiff was legally and proximately caused by persons or entities other than FMS and was beyond the control or supervision of FMS or for whom FMS was and is not responsible or liable.

5. FMS denies any liability; however, regardless of liability, Plaintiff has suffered no actual damages as a result of FMS's purported violations.

WHEREFORE, Defendant, FMS, INC., requests that the Court dismiss this action with prejudice and grant it any other relief that the Court deems appropriate.

Respectfully Submitted,

FMS, INC.

BY "/s/"
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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of January, 2014 a copy of the foregoing was served electronically via CM/ECF on the following:

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